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DEVELOPMENT. (1948) Department.

SERIES.

G.O. No. 6366

Dated 24.12.48.

[Despatch Abstract.]

Subs:- Labour - International Labour Organisation - Convention on Freedom of Association and right to organise - Ratification - Governments views communicated to India.

GOVERNMENT OF INDIA.
Ministry of Labour.

No. LC. 71(3) Dated New Delhi, the 25th November, 1948.

From

Rai Bahadur Sadashiva Prasad, M.A. B.L.,
Deputy Secretary to the Government of India.

To

1. All Provincial Governments.
2. The Chief Commissioners, Delhi, Ajmer-Merwara, Coorg and Himachal Pradesh.
3. The Indian National Trade Union Congress, Congress House, Bombay.
4. The All India Trade Union Congress, 55, Girgaon Road, Bombay.
5. The Indian Federation of Labour, Delhi.
6. The Employers' Federation of India, Bombay.
7. The All-India Organisation of Industrial Employers,

Sub:- International Labour Organisation Convention concerning Freedom of Association and Protection of the Right to Organise.

Sir,

I am directed to enclose a copy of the text of the Convention concerning "Freedom of Association and Protection of the Right to Organise" adopted at the 31st Session of the International Labour Conference held at San Francisco during June-July, 1948, and to request that this Ministry may kindly be informed whether in the opinion of your Government / your opinion/the opinion of your Organisation India can and should ratify this Convention. It is requested that your reply may kindly be communicated to this Ministry by the 31st December, 1948, at the latest.

Yours faithfully,

(Sd) SADASHIVA PRASAD.
DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA.

/True copy/

TEXT OF THE CONVENTION (No.) CONCERNING FREEDOM OF ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANISE SUBMITTED BY THE DRAFTING COMMITTEE.

***

The General Conference of the International Labour Organisation,

Having been convened at San Francisco by the Governing Body of the International Labour Office, and having met in its Thirty first Session on 17 June 1948;

Having decided to adopt, in the form of a Convention, certain proposals concerning freedom of association and protection of the right to organise, which is the seventh item on the agenda of the Session;

Considering that the Preamble to the Constitution of the International Labour Organisation declares "recognition of the principle of freedom of association" to be a means of improving conditions of labour and of establishing peace;

Considering that the Declaration of Philadelphia reaffirms that "freedom of expression and of association are essential to sustained progress"

Considering that the ~~Declaration of Philadelphia reaffirms that "free~~ International Labour Conference, at its Thirtieth Session, unanimously adopted the principles which should form the basis for international regulation;

Considering that the General Assembly of the United Nations, at its second Session, endorsed these principles and requested the International Labour Organisation to continue every effort in order that it may be possible to adopt one or several international Conventions;

adopts this day of July of the year one thousand nine hundred and forty-eight the following Convention, which may be cited as the Freedom of Association and Protection of the Right to Organise Convention, 1948:

PART I. Freedom of Association.

Article 1.

Each Member of the International Labour Organisation for which this Convention is in force undertakes to give effect to the following: provisions.

Article 2.

Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

Article 3.

1. Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes.

2. The public authorities shall refrain from any in-

interference which would restrict this right or impede the lawful exercise thereof.

Article 4.

Workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority.

Article 5.

Workers' and employers' organisations shall have the right to establish and join federations and confederations and any such organisation, federation or cofederation shall have the right to affiliate with international organisations of workers and employers.

Article 6.

The provisions of Articles 2,3 and 4 hereof apply to federations and cofederations of workers' and employers' organisation.

Article 7.

The acquisition of legal personality by workers' and employers' organisations, federations and confederations shall not be made subject to conditions of such a character as to restrict the application of the provisions of Articles 2, 3 and 4 hereof.

Article 8.

1. In exercising the rights provided for in this Convention workers and employers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land.

2. The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention.

Article 9.

1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.

2. In accordance with the principle set forth in paragraph 8 of Article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

Article 10.

In aee this Convention the term "organisation" means any organisation or workers or of employers for furthering and defeding the interest of workers or of employers.

Part II. Protection of the Right to Organise.

Article II.

Each Member of the International Labour Organisation for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise.

Part II Miscellaneous Provisions.

Article 12.

1. In respect of the territories referred to in Article

35 of the Constitution of the International Labour Organisation as amended by the Constitution of the International Labour Organisation Instrument of Amendment, 1946, other than the territories referred to in paragraphs 4 and 5 of the said Article as so amended, each Member of the Organisation which ratifies this Convention shall communicate to the Director General of the International Labour Office with or as soon as possible after its ratification a declaration stating --

(a) the territories in respect of which it undertakes that the provisions of the Convention shall be applied without modification;

(b) the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;

(c) the territories in respect of which the Convention is inapplicable and in such cases the groumds on which it is inapplicable;

(d) the territories in respect of which it reserves its decision.

2. The undertakings referred in in sub-paragraphs (a) and (b) of paragraph 1 of this article shall be deemed to be an integral part of the ratification and shall have the force of ratification.

3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservations made in its original declaration in virtue of sub-paragraphs (b), (c) or (d) of paragraph 1 of this article.

4. Any Member may at any time at which this Convention is subject to denunciation in accordance with the provisions of Article 16, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

Article 13.

1. Where the subject matter of this Convention is within the self-governing powers of any non-metropolitan territory, the Member responsible for the international relations of that territory may, in agreement with the Government of the territory, communicate to the Director-General of the International Labour Office a declaration accepting on behalf of the territory the obligation of this Convention.

2. A declaration accepting the obligations of this Convention may be communicated to the Director-General of the International Labour Office --

(a) by two or more members of the organisation in respect of any territory which is under their joint authority; or

(b) by any international authority responsible for the administration of any territory, in virtue of the Charter of the United Nations or otherwise, in respect of any such territory.

3. Declarations communicated to the Director-General of the International Labour Office in accordance with the poceding paragraphs of this article shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications it shall give details of the said modifications.

4. The member, members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part of the right to have recourse to any modification indicated in any former declaration.

5. The member, members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of Article 16, communicate to the Director-General of the International Labour Office a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

PART IV. Final Provisions.

Article 14.

The formal ratifications of this Convention shall be ~~binding only upon~~ communicated to the Director-General of the International Labour Office for registration.

Article 15 .

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 16.

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office ~~to th~~ for registration. Such denunciation shall not take effect until one year after the date in which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraphs, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 17.

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Orga-

nisation of the registration of all ratifications, declarations and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention.

Article 18.

The Director-General of the International Labour Office shall communicated to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, declarations and acts of denunciation registered by him in accordance with the provisions of the preceding articles.

Article 19.

At the expiration of each period of ten years after the coming into force of this Convention, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall consider the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 20.

1. Should the Conferece adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides,

(a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 16 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its f actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 21.

The English and French versions of the text of this Convention are equally authoritative.

/True copy/

7.4.54

Office Assistant

~~Superintendant~~,
Madras Record Office.

mr. 4.8.

5/4/54

GOVERNMENT OF MADRAS.
Development Department.
Letter Ms.6355.

From

The Secretary to the Government of Madras,
Development Department,
Fort St. George, MADRAS-9.

To

The Secretary to the Government of India,
Ministry of Labour, NEW DELHI.

Dated, Fort St.George, the 24th Dec.1948.

Sir,

Sub: LABOUR - International Labour Organization - Convention of freedom of association and right to organize - Ratification - Government's views communicated to India.

Ref: Rai Bahadur Sadashiva Prasad's letter No. LC.71(3), dated 25th November 1948.

I am directed to refer to the letter cited and to say that in view of the large number of illiterate workers in the country who are liable to be misguided by interested persons, it will be necessary to restrict the freedom of workers' associations to have outsiders on their executive. It will also be necessary to ensure that the freedom to affiliate with international organisations allowed by Article 5 does not interfere with the security of the State. It is presumed that restrictions in these regard will not be considered as impairing the guarantees provided in the Convention. Subject to this presumption, the Government of Madras are of opinion that the Convention can and should be ratified by this country.

Yours faithfully,

sd. x x x,
23-12-48

/True Copy/

3.9.54

OFFICE ASSISTANT,
MADRAS RECORD OFFICE.

RS/5/2/1954.